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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,313	03/13/2001	Gigi C. Gordon	GOR05 P-300A	1788

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EXAMINER
GREEN, BRIAN

ART UNIT	PAPER NUMBER
3611	

DATE MAILED: 04/16/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.	Applicant(s)
09/805,313	
Examiner	**Group Art Unit**
	3614 ~~3628~~

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication .
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

☒ Responsive to communication(s) filed on 1/23/02.

☒ This action is **FINAL.**

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 1-17 is/are pending in the application.

Of the above claim(s)_____ is/are withdrawn from consideration.

☐ Claim(s)_____ is/are allowed.

☒ Claim(s) 1-17 is/are rejected.

☐ Claim(s)_____ is/are objected to.

☐ Claim(s)_____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The proposed drawing correction, filed on_____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on_____ is/are objected to by the Examiner.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 11 9(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☐ received.

☐ received in Application No. (Series Code/Serial Number)_____.

☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received:_____.

Attachment(s)

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s)._____

☐ Interview Summary, PTO-413

☐ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other_____

Office Action Summary

Drawings

1. The drawings are objected to because in figures 1-4, each of the figures must be separately labeled, i.e. Fig. 1a, Fig. 1b, etc. Correction is required. **The applicant is reminded that all proposed drawing corrections must be shown in red and approved by the examiner. Therefore, any proposed drawing corrections should be submitted in the applicant's next response.**

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-3 and 5-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Channer (Des. 403,813).

Channer shows in figures 1-8 a sponge scrubber that includes raised indicia thereon. The indicia is considered to be for indicating the article to be cleaned, i.e. the cat. Channer does not disclose the use of more than one sponge scrubber. It would have been obvious to one in the art to provide two or more scrubbers with indicia thereon since this would allow each scrubber to be identified for each particular animal, i.e. cat, dog, horse, pig, etc. Further, Channer discloses the idea of placing indicia on a sponge and it is considered within one skilled in the art to place any indicia on the sponge as desired. The particular indicia placed on the sponge is not considered to

be a patentable feature in an article claim. What the article is used for is considered to be intended use and the device of Channer merely has to be capable of performing the function defined in the claim. In regard to claim 3, as broadly defined, the letters (CAT) are considered to be the symbols. Further, it is considered within one skilled in the art to placed any type of indicia on the scrubber as desired. In regard to claims 10 and 11, it is within one skilled in the art to make the indicia a different color from the scrubber since this would allow the indicia to be seen in a better manner and embedding the indicia would make the indicia more durable. In regard to claim 12, the method used in making the article is not given any patentable weight in an article claim. Further, the idea of printing indicia is conventional.

4. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Channer as applied to claim 1 above, and further in view of Gray (Des. 182,116).

Channer discloses the applicant's basic inventive concept except for making the outline of the scrubber in the shape of the cleaning article. Gray shows in figures 1-2 the idea of making the outline of a sponge in the shape of an article, i.e. JOY. In view of the teachings of Gray it would have been obvious to one in the art to modify Channer by making the outline in the shape of a cleaning article (a cat) since this would create a more amusing and aesthetically pleasing display.

5. Claims 1-3 and 5-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ruth (Des. 119,772).

Ruth shows in the figure a towel that includes indicia thereon. The indicia is considered to be for indicating the article to be cleaned, i.e. the dishes, pot, etc. Ruth does not disclose the use of more than one towel. It would have been obvious to one in the art to provide two or more towels with indicia thereon since this would allow other articles to be shown and would create a set of different towels which are more aesthetically pleasing, i.e. a towel for Monday, a towel for Tuesday, etc. Further, Ruth discloses the idea of placing indicia on a towel and it is considered within one skilled in the art to place any indicia on the towel as desired. The particular indicia placed on the towel is not considered to be a patentable feature in an article claim. What the article is used for is considered to be intended use and the device of Ruth merely has to be capable of performing the function defined in the claim. In regard to claim 2 and 7, it is considered within one skilled in the art to vary the text as desired, i.e. the text could indicate any desired message such as dishes, stove, cat, etc. In regard to claim 5, raised indicia is known, it would have been obvious to make the indicia raised since this would create a more aesthetically pleasing display. In regard to claim, it is within one skilled in the art to embed the indicia since this would make the indicia more durable. In regard to claim 12, the method used in making the article is not given any patentable weight in an article claim. Further, the idea of printing indicia is conventional.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruth as applied to claim 1 above, and further in view of Gray (Des. 182,116).

Ruth discloses the applicant's basic inventive concept except for making the outline of the scrubber in the shape of the cleaning article. Gray shows in figures 1-2 the idea of making the outline of a sponge in the shape of an article, i.e. JOY. In view of the teachings of Gray it would have been obvious to one in the art to modify Ruth by making the outline in the shape of a cleaning article since this would create a more amusing and aesthetically pleasing display.

Applicant's arguments filed Jan. 23, 2002 have been fully considered but they are not persuasive.

In regard to the applicant's argument that nowhere does Channer indicate that the intended cleaning application for the article disclosed therein would be even remotely associated with cats or any member of the feline family. The applicant is basically defining in the claims two or more cleaning articles that have indicia on them. The indicia indicating the article upon which the cleaning article is to be used on. Channer discloses the use of a sponge that has indicia thereon. Channer does not disclose more than one sponge. Clearly, it is within one skilled in the art to provide two or more of the sponges taught by Channer. The main difference between Channer and the applicant's invention is directed to what information is placed on the sponge. Channer discloses the idea of placing indicia "CAT" on the sponge. A cat is an article to be cleaned and it is considered proper to consider the sponge of Channer to be for cleaning an article, i.e. cat. It is

considered within one skilled in the art to vary the indicia placed on the sponges as desired. In fact, in an article claim, what the indicia says is not a patentable feature unless it is structurally related to the device in which it is attached. The indicia defined by the applicant's invention is not considered to be structurally related to the device in which it is attached. To summarize, the applicant claims a plurality of cleaning articles with indicia and Channer shows a cleaning article with indicia, it is considered within one skilled in the art to provide two or more of the cleaning articles of Channer, and the indicia placed on the cleaning articles can be varied as desired. It is also pointed out that the applicant defines the invention as an article claim and what the article is actually being used for is considered to be intended use. As defined, the article of Channer is capable of being used to clean a cat.

In regard to the applicant's argument that nowhere does Ruth indicating its intended use. The applicant is basically defining in the claims two or more cleaning articles that have indicia on them. The indicia indicating the article upon which the cleaning article is to be used on. Ruth discloses the use of a towel that has indicia thereon. Ruth does not disclose more than one towel. Clearly, it is within one skilled in the art to provide two or more of the towels taught by Ruth. The main difference between Ruth and the applicant's invention is directed to what information is placed on the towel. Ruth discloses the idea of placing indicia "Saturday" and a picture of a person, stove, dishes, etc. on the towel. The dishes, stove, tea kettle, etc. are article to be cleaned and it is considered proper to consider the towel of Ruth to be for cleaning one of these articles. It is

considered within one skilled in the art to vary the indicia placed on the towels as desired. In fact, in an article claim, what the indicia says is not a patentable feature unless it is structurally related to the device in which it is attached. The indicia defined by the applicant's invention is not considered to be structurally related to the device in which it is attached. To summarize, the applicant claims a plurality of cleaning articles with indicia and Ruth shows a cleaning article with indicia, it is considered within one skilled in the art to provide two or more of the cleaning articles of Ruth, and the indicia placed on the cleaning articles can be varied as desired. It is also pointed out that the applicant defines the invention as an article claim and what the article is actually being used for is considered to be intended use. As defined, the article of Ruth is capable of being used to clean a dish, stove, tea pot, etc.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Green whose telephone number is (703) 308-1011. The examiner can normally be reached on Monday-Friday from 7:00 a.m. to 3:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson, can be reached on (703) 308-2089. The fax phone number for the organization where this application or proceeding is assigned is (703) 305-3597.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

Brian K. Green

BRIAN K. GREEN
PRIMARY EXAMINER

bkg

April 11, 2002